IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.935 OF 2005

Shri Shrirang Baburao
Mane & Ors. .. Petitioners.
Vs.
Shri Ashok Laxman Mane & Ors. .. Respondents.

Mr.G.N.Salunke for the petitioners.
Mr.Uday P.Warunjikar for the respondents.

CORAM : D.B.BHOSALE, J.

DATED : 30TH AUGUST, 2006

P.C.:

. Heard learned counsel for the petitioners and the respondents.

2. This petition is directed against the impugned judgment and order dated 10.12.2004 passed by the learned Additional District Judge in Miscellaneous Civil Appeal No.178 of 2003 by which the appeal filed by the respondent-defendant has been allowed. Mr.Salunke, learned counsel for the petitioners at the outset submitted that application at Exhibit-20 filed by the defendants seeking injunction under Order 39 Rule 1 could not have been allowed in the suit filed by the petitioner. It is clear from the observations in the impugned order that the respondent-defendant has also preferred counter claim and in view thereof I

find no merit in the contentions advanced by the learned counsel for the petitioners. He further streneously contended that the courts below have not appreciated the evidence on record in judicial manner while dealing with the application for interim relief. It is well settled that this Court is not expected to reassess the material and seek to reach the conclusion different from the one reached by the courts below, if one reached by the courts below was reasonably possible on the material. If the discretion has been exercised by the trial Court reasonably and in judicial manner the fact that this court can take different view may not justify interference with the discretion exercised by the courts below. In this petition no case whatsoever is made out for warranting interference in the impugned order. Hence writ petition is dismissed. The trial Court shall endeavour to dispose of the suit as expeditiously as possible and preferrably within one year from the date of receipt of this order on merits in accordance with law and uninfluenced by the observations made in these proceedings arising from the application under Order 39 Rule 1 of the Code of Civil Procedure.

(D.B.Bhosale, J.)